

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Kevin Phillip Rasperry,
Petitioner,
v.
Jeremy Bean, *et al.*,
Respondents.

Case No. 2:25-cv-00110-RFB-BNW

ORDER

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Kevin Phillip Rasperry, an individual incarcerated at Nevada's High Desert State Prison. On January 17, 2025, the Court received from Rasperry an application to proceed *in forma pauperis* (ECF No. 1), a *pro se* petition for writ of habeas corpus (ECF No. 1-1), a motion for appointment of counsel (ECF No. 1-2), a motion for stay (ECF No. 1-3), and a motion to file 2254 petition with excess pages (ECF No. 1-4).

The application to proceed *in forma pauperis* (ECF No. 1) is incomplete in that it does not include the required financial certificate signed by a prison officer. See Local Rule LSR 1-2. Therefore, the application will be denied, without prejudice. The Court will, however, suspend the matter of payment of the filing fee. The Court will set a deadline for Rasperry to pay the filing fee or file a new *in forma pauperis* application after counsel appears on his behalf.

Prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. Chaney v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing Kreiling v. Field, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however, appoint counsel at any stage of the proceedings if the interests of justice so require. See 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; Chaney, 801 F.2d at 1196. Rasperry's filings indicate that this action may be complex and that he may not be able to litigate this action *pro se*. The Court finds

1 that appointment of counsel is in the interests of justice. The Court will grant Rasperry's motion
2 for appointment of counsel (ECF No. 1-2).

3 The Court will deny Rasperry's motion for stay (ECF No. 1-3), without prejudice, so
4 that Rasperry will have the benefit of appointed counsel before deciding whether or not, or
5 when, to request a stay of this action.

6 Rasperry's motion to file his habeas petition with excess pages (ECF No. 1-4) is
7 unnecessary. See LSR 3-2(c) ("In cases in which the petitioner is not sentenced to death, there is
8 no page limit with respect to habeas corpus petitions...."). The Court will deny the motion on
9 that ground.

10 The Court has examined Rasperry's habeas petition pursuant to Rule 4 of the Rules
11 Governing Section 2254 Cases in the United States District Courts and determines that it merits
12 service upon the respondents. The Court will order the petition served upon the respondents, and
13 will direct the respondents to appear, but will not require any further action on their part at this
14 time.

15 **IT IS THEREFORE ORDERED** that Petitioner's Application to Proceed *in Forma*
16 *Pauperis* (ECF No. 1) is **DENIED**, without prejudice.

17 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to separately file
18 the Petition for Writ of Habeas Corpus (ECF No. 1-1), the Motion to Appoint Counsel (ECF No.
19 1-2), the Motion for Stay (ECF No. 1-3), and the Motion to File 2254 Petition in Excess of Pages
20 Allowed (ECF No. 1-4).

21 **IT IS FURTHER ORDERED** that Petitioner's Motion to Appoint Counsel (ECF No. 1-
22 2) is **GRANTED**. The Federal Public Defender for the District of Nevada (FPD) is appointed to
23 represent the petitioner. If the FPD is unable to represent the petitioner, because of a conflict of
24 interest or for any other reason, alternate counsel will be appointed. In either case, counsel will
25 represent the petitioner in all federal court proceedings relating to this matter, unless allowed to
26 withdraw.

1 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to electronically
2 serve upon the FPD a copy of this order, together with a copy of the Petition for Writ of Habeas
3 Corpus (ECF No. 1-1).

4 **IT IS FURTHER ORDERED** that the FPD will have 30 days from the date of this order
5 to file a notice of appearance or to indicate to the Court its inability to represent the petitioner in
6 this case.

7 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to add Aaron Ford,
8 Attorney General of the State of Nevada, as counsel for Respondents and to provide Respondents
9 an electronic copy of all items previously filed in this case by regenerating the Notice of
10 Electronic Filing to the office of the Attorney General only.

11 **IT IS FURTHER ORDERED** that the respondents will have 30 days from the date of
12 this order to appear in this action. Respondents will not be required to respond to the habeas
13 petition at this time.

14 **IT IS FURTHER ORDERED** that Petitioner's Motion for Stay and Abeyance (ECF No.
15 1-3) is **DENIED**, without prejudice.

16 **IT IS FURTHER ORDERED** that Petitioner's Motion to File 2254 Petition in Excess
17 of Pages Allowed (ECF No. 1-4) is **DENIED**, as unnecessary.

18 DATED THIS 22 day of January, 2025.

19 

20 _____
21 RICHARD F. BOULWARE, II,
22 UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28